THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.22645 OF 2003

21.12.2005

Between

B.Nagender @ Narender Singh, S/o.Tuljaram

And another

… Petitioners

And

Government of A.P. rep by the Superintendent of Police,

O/o the Superintendent of Police, Mahabubnagar,

and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22645 of 2003

ORDER:

The petitioners are members of Navajyothi Youth Association, Bicchal village of Doultabad Mandal in Mahabubnagar District. They allege that the third respondent committed offences under Sections 166, 167 and 420 of Indian Penal Code, 1860 (IPC). They gave a complaint to the second respondent, in vain. Hence, they filed private complaint on the file of the Court of Judicial Magistrate of First Class, Kodangal, who endorsed the same to second respondent. A crime No.30 of 2003 was therefore registered on 02.8.2003. After completing the investigation, the second respondent submitted report under Section 173(2) of the Code of Criminal Procedure, 1973 (Cr.PC). As required under Section 173(3) of Cr.PC, the second respondent issued a notice dated 01.10.2003 to the petitioners informing that the report is being filed as non-cognizable and that it is in the nature of civil dispute. Aggrieved by the said notice, the present writ petition is filed.

It is now well settled by reason of a decision of the Supreme Court in **Union of Public Service Commission v S.Papaiah** when the complainant receives notice of filing of report by the police, such a complainant has to approach the Magistrate and the Magistrate is bound to hear the complainant before passing orders accepting the report of the police for closure of the case. A writ petition is not a proper remedy.

The petitioner is, therefore, given liberty to approach the Court of Judicial Magistrate of First Class, Kodangal and raise objections. The notice issued by the second respondent is in accordance with Section 173(3) of Cr.PC and the same cannot be held illegal.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO,J**)

December 21, 2005.

YS